

ORIGINAL

GENERAL COUNSEL  
OF COPYRIGHT

June 10, 1998

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RECEIVED

Chairperson Lewis Hall Griffith  
Arbitrator Edward Dreyfus  
Arbitrator Jeffrey S. Gulin  
c/o Gina L. Giuffreda  
Copyright Arbitration Royalty Panel  
Library of Congress  
P.O. Box 70977  
Southwest Station  
Washington, D.C. 20024

Re: Noncommercial Educational Broadcasting  
Compulsory License, Docket No. 96-6  
CARP NCBRA

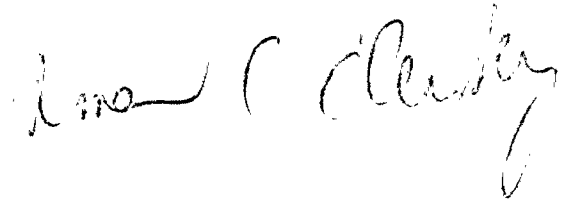
Dear Members of The Panel:

On behalf of BMI, we write to respond to the letter of counsel for the public broadcasters to the Panel dated May 28, 1998 with respect to the division of fees and costs among the parties to this proceeding. At the February 3, 1998 hearing, the Panel decided to allocate the fees and costs among the parties by allocating half to BMI/ASCAP and half to the public broadcasters on an interim basis, allowing the public broadcasters to renew their request for an alternative allocation at the conclusion of the proceeding. (See Transcript of Hearing on February 3, 1998 at 21.)

The allocation should remain the same as previously determined. A section 118 proceeding is designed by statute to be a proceeding between public broadcasters, on one hand, and authors and composers, on the other, or a proceeding between their representatives. In reality, PBS and NPR are the representatives of public radio and television stations in this proceeding. BMI and ASCAP are the representatives of the copyright owners in this proceeding. Prior CARP precedent confirms that equal allocation of fees as between copyright owners and users is appropriate. See, e.g., Report of Panel in *in Re Rate Adjustment for the Satellite Carrier Compulsory License*, Docket No. 96-3 CARP-SRA at 54 (Aug. 28, 1997). While there may be variations in the fee approaches put forward by BMI and ASCAP, in general, they are similar. The evidence, too, put forward by ASCAP and BMI is overlapping and generally

complementary. In addition, while BMI and ASCAP are two parties, the public broadcasters are three parties, PBS, NPR and CPB.

Respectfully submitted,



cc: R. Bruce Rich, Esq.  
Philip Schaeffer, Esq.

W6-NY981540.437